

REMARKS

Claims 25-43 have been cancelled without prejudice or disclaimer.

Claims 1-24 stand rejected under 35 USC 102 as anticipated by Tajima, *et al.* '414 and/or Naipawar and/or under USC 103 as obvious in view of various combinations of Tajima, *et al.* '414 and Bohnhoff.

In response to the outstanding Official Action Claim 1 has been amended to more succinctly define the invention. In view thereof (and the following remarks) the rejections of Claims 1-24 are respectfully traversed and reconsideration of Claims 1-24, as amended, is respectfully requested.

The §102 Rejections

Claim 1 (as well as most of the claims dependent therefrom) has been rejected as anticipated by Tajima, *et al.* '4,636,414 and/or Naipawar III 2002/0037405. The rejections are respectfully traversed.

Claim 1, as amended, specifically defines the following structure:

- (i) a layer of rubberized asphalt having first and second sides;
- (ii) a flexible layer of durable plastic film bonded to the first side;
- (iii) a layer of geotextile continuously bonded to the second side; and
- (iv) a concrete substrate bonded directly to the geotextile layer.

The structure of Claim 1 is formed by pouring wet concrete against the geotextile layer in the formation, stabilization and/or rehabilitation of concrete slabs and/or walls. As set forth in the specification, the geotextile layer functions to provide resistance to damage and forms a mechanical bond to concrete poured over or against it (par.s 0013, 0022). The flexible layer of

durable plastic provides a vapor barrier and the rubberized asphalt provides stress relief and self-healing properties to any punctures in the membrane.

Tajima, *et al.* '414 discloses a multi-layer (laminated) composite roofing material. Although the laminate of Tajima, *et al.* '414 includes layers of bituminous material, a layer of plastic film and a “fibrous sheet,” the laminate is not arranged as set forth in Claim 1 and, more significantly, does not include a geotextile bonded directly to a concrete substrate. Not only is the claimed structure not disclosed in the reference, the structures disclosed by the reference cannot perform the same functions and simply cannot operate in the same way as the structure claimed.

The Tajima, *et al.* '414 laminate is a roofing material. The composite of Claim 1 is a waterproofing membrane secured to a concrete slab, wall or the like. The Tajima, *et al.* '414 laminate not only lacks material elements set forth in Claim 1, the product of Tajima, *et al.* '414 (as well as the individual components therein) perform functions which are totally different from the functions performed by similar components in Claim 1. For example, the “fibrous material” of Tajima, *et al.* '414 bonds two layers of bituminous material together. The geotextile of Claim 1 bonds a bituminous layer to concrete. Since the roofing material of Tajima, *et al.* '414 is not bonded to concrete, a material element of Claim 1 (the concrete substrate) is totally missing. Accordingly, it is respectfully submitted that the rejection of Claim 1 anticipated by Tajima, *et al.* '414 is wholly inapposite and must be withdrawn.

Claims 2-24 all contain the same limitations as Claim 1 and therefore are deemed patentable over the same reference for the same reasons. Furthermore, since these claims specifically define characteristics of the rubberized asphalt layer in the membrane structure defined by Claim 1, nothing found in the Tajima, *et al.* '414 reference can be used to support a

rejection of these claims under Sec. 102. Therefore, the rejection of Claims 1-7 under 35 USC 102 is wholly without support and must be withdrawn.

Naipawar, like Tajima, *et al.* '414, discloses multi-layered waterproofing membrane (roofing material) wherein a fibrous mat 20 is employed to secure two bituminous layers together. Nowhere does Naipawar show or even remotely suggest a structure wherein a geotextile is used to directly bond a bituminous layer to concrete. Furthermore, the Naipawar laminate (like the Tajima, *et al.* '414 product) is intended for use as a roofing material and thus cannot perform any of the functions of the concrete substrate sealing functions of the composite of Claim 1. Accordingly, the rejection of Claim 1 (as well as the dependent Claims 12 and 13) as anticipated by Naipawar is wholly without support and must be withdrawn.

The §103 Rejections

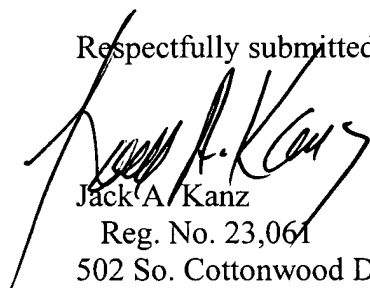
Claims 20-22 have been rejected under §103 as unpatentable over Tajima, *et al.* '414 considered with Bohnhoff. The rejection is respectfully traversed.

Claims 20-22 are dependent from Claim 1 and thus include all the limitations of Claim 1. Bohnhoff discloses a mat comprising upstanding tubular members disposed in a rectangular array. Bohnhoff merely discloses a drainage mat attached to a polyethylene film. No sandwich structure comprising a layer of rubberized asphalt is remotely suggested. Nowhere does Bohnhoff disclose or even remotely suggest the unique structure defined in Claim 1 and thus supplies none of the deficiencies of Tajima, *et al.* '414 discussed above. Furthermore, nothing in either reference remotely suggests use of a geotextile to bond a bituminous layer to concrete or any other bituminous-geotextile-concrete composite arrangement. Accordingly, the §103 rejection of Claims 20-22 is wholly without support and must be withdrawn.

Since Claims 25-43 have been cancelled and claims 1-24 have been shown to be patentable over the references cited thereagainst, all as set forth hereinabove, it is respectfully requested that Claims 1-24 be allowed and the case passed to issue. An early action to that effect is earnestly solicited.

In the event a telephone conference could resolve any outstanding issues, a telephone call to the undersigned is invited.

Respectfully submitted,



Jack A. Kanz

Reg. No. 23,061
502 So. Cottonwood Drive
Richardson, Texas 75080
Tel 972.234.1394
Fax 972.234.5171

July 16, 2008

ATTORNEY FOR APPLICANT